

## SECTION 6: DESIGN AND IMPROVEMENT STANDARDS, GENERAL

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### A. General Standards.

All subdivisions approved by the governing body must comply with the provisions of this section, except where granted a variance pursuant to Section 13, Administrative Provisions: Variances.

1. Conformance: The design and development of a subdivision shall conform with adopted growth policies or comprehensive plans, zoning regulations and other resolutions and regulations.
2. Natural Environment: The design and development of the subdivision shall, insofar as it is possible, preserve or enhance the natural terrain, prominent ridgelines, natural drainage, floodplain, existing topsoil, trees, and natural vegetation.
3. Lands Unsuitable for Subdivision: Land which the Commission has found to be unsuitable for subdivision because of potential hazards such as flooding, land slides, excessive slope, rock falls, snow avalanches, subsidence, high water table, polluted or non-potable water; or because of unreasonable burdens on the general public such as requirements for the excessive expenditure of public funds, environmental degradation, and congestion in the roads shall not be subdivided for building or residential purposes unless the hazards or excessive public burdens are eliminated or will be overcome by appropriate design and construction plans.
4. Re-vegetation: All areas disturbed during construction shall be reseeded with vegetation types approved by the Weed Control Supervisor.
5. Watercourse Mitigation: Where a subdivision is crossed by or adjacent to a watercourse, the subdivider shall mitigate the impacts of the subdivision on the watercourse. This mitigation may not be less restrictive than the requirements of the Gallatin County Floodplain Regulations or any applicable zoning regulations. As described below, the subdivider shall provide watercourse setbacks or a watercourse mitigation plan.
  - a. Setback: The subdivider shall provide the following setbacks, which parallel the ordinary high water mark of the watercourse. A 300 foot setback shall be provided between the ordinary high water mark and any residential or commercial structure, excluding structures used for agricultural purposes or for the maintenance of livestock, along the following rivers: the East and West Gallatin, Madison, Jefferson and

Missouri rivers. A 150-foot setback shall be provided from the ordinary high water mark of all other watercourses.

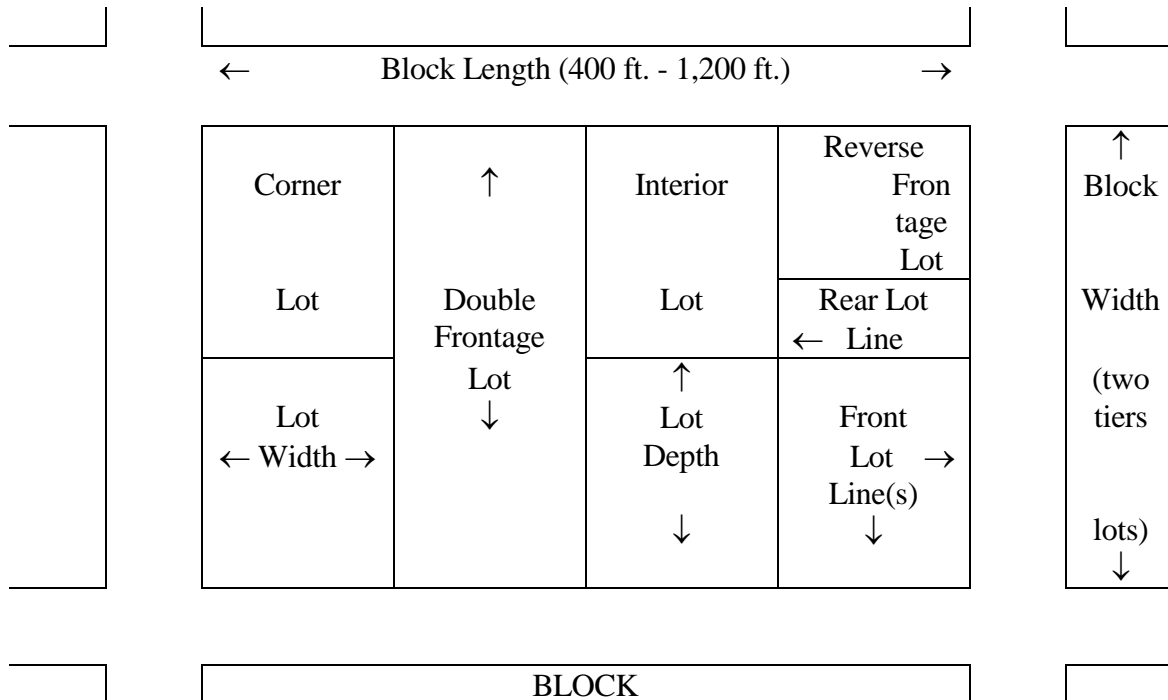
- b. Watercourse mitigation plan: The subdivider shall submit a plan, and propose measures to mitigate the impacts of the subdivision on the watercourse. The plan shall evaluate the potential effects of the proposed subdivision on the watercourse; to include consideration of wildlife and fish habitat, water quality, vegetation, and watercourse health. The mitigation measures might include: setbacks, building envelopes, landscaping, type and/or location of septic systems, stream bank stabilization, etc.

**B. Lots.** See FIGURE 1.

- 1. Dimensions and Orientation: Lot size, width, shape, and orientation shall be appropriate for the location and contemplated use of the subdivision. Lot designs with irregular shapes, narrow necks, points and flag shapes shall be permitted only when the subdivider can demonstrate that the proposed lot designs are necessary due to topography or other physical constraints. Each lot shall contain a satisfactory building site and shall conform to zoning codes and comprehensive plans where officially adopted, and to the regulations of MDEQ. Slopes in excess of 25 percent (25%) shall be presumed unsuitable for building sites unless otherwise proved by the subdivider.
- 2. Division by Rights-of-Way: No single lot shall be divided by a dedicated right-of-way or easement, which would reduce the buildable area to a size less than required by these and other adopted regulations.
- 3. Double Frontage: Double frontage lots shall be avoided except where essential:
  - a. To provide separation of residential development from arterial roads.
  - b. To provide access to development adjacent to limited access roads.
  - c. To overcome topography or other physical conditions.
  - d. To overcome specific disadvantages of existing design and orientation.
- 4. Corner Lots: Corner lots shall have sufficient width to permit appropriate building setback from both roads and provide acceptable visibility for traffic safety.

5. Width: Lots shall have a width sufficient to allow normal construction without the construction encroaching on property lines.
6. Depth: No lot shall have an average depth greater than three times its average width. For lots greater than five (5) acres in size, the average depth may be greater than three times its average width provided that the lot width is no less than 150 feet.
7. Side Lot Lines: Side lot lines shall be, whenever practical, at right angles or radial to road lines.
8. Frontage on Public Roads: Each lot shall have a minimum of thirty feet (30') of frontage on a public road or on a public road easement to provide enough room for snow removal along the lot access (driveway) and utility easements.

**FIGURE 1.  
SUBDIVISION LOT TERMS**



**C. Blocks.** See FIGURE 1.

1. Size and Orientation: Blocks shall be designed to assure traffic safety and ease of traffic control and circulation, to accommodate the special needs of the use contemplated, and to take advantage of the limitations and opportunities of the topography.
2. Block Length: Block length shall not be designed, unless otherwise impractical, to be more than one thousand two hundred feet (1,200') or less than four hundred feet (400') in length.
3. Block Width: Blocks shall be wide enough to allow for two tiers of lots except where essential to provide separation of residential development from a traffic arterial or to overcome specific disadvantages of topography and orientation.
4. Rights-Of-Way for Pedestrians: Rights-of-way for pedestrian walks, not less than ten feet (10') wide, shall be required where deemed essential to provide circulation or access to schools, playgrounds, shopping centers, transportation and other community facilities.

**D. Easements.**

1. Required Easements: Where determined to be necessary, the Commission shall require that easements be provided for utilities, drainage, irrigation ditch maintenance, vehicular or pedestrian access, and planting screens. All easements shall be shown on the final subdivision plat.
2. Utility Easements: Utility easements shall meet the following standards:
  - a. Utility easements shall be centered along side and rear lot lines wherever possible, and, if placed in the road, be located between the roadway and the right-of-way line, or in a location requested by and agreed upon in writing by all of the appropriate utilities.
  - b. Utility easements shall be twenty feet (20') wide; except the Commission shall require easements for sanitary sewer, storm sewer, and water lines to be thirty feet (30') wide if requested by the appropriate utility provider. Utility easement width may be less than twenty feet (20') if approved by the utility provider(s), and approved by the Commission.

- c. Where a utility is to be located in an existing, dedicated right-of-way, an encroachment permit must be obtained from the local or state road department having jurisdiction.
- d. The following statement shall appear on the final plat:

*The undersigned hereby grants unto each and every person, firm, or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as "Utility Easement" to have and to hold forever.*

3. Drainage and Irrigation Maintenance Easements shall meet the following standards:

- a. Where the land to be subdivided is traversed by a drainage way, irrigation ditch or canal, or below-ground pipeline, easements or rights-of-way shall be required that are in locations of appropriate topographic characteristics and sufficient width, to allow the physical placement and unobstructed maintenance of drainage ways, open ditches or belowground pipelines for the delivery of water for irrigation to persons and lands legally entitled to the water under an appropriated water right or permit of an irrigation district or other private or public entity formed to provide for the use of the water right on the subdivision lots; are sufficient distance from the centerline of the ditch to allow construction, repair, maintenance, and inspection of the ditch; and prohibit the placement of structures or the planting of vegetation other than grass within the ditch easement without the written permission of the ditch owner.
- b. Drainage ways, irrigation canals/ditches, and below-ground pipelines shall require a minimum width of such easement to be twenty feet (20'); fifteen feet (15') on one side and five feet (5') on the other side of the waterway, or the width required by the legal user of the waterway for maintenance purposes. Before any maintenance or improvements are performed on any drainage way, irrigation ditch or canal, or below-ground pipeline, the legal user of the waterway must give written permission for the work to be done.
- c. Establishment of easements are not required if:
  - i. the average lot size is 1 acre or less and the subdivider provides for disclosure, in a manner acceptable to the

Commission, that adequately notifies potential buyers of lots that are classified as irrigated land and may continue to be assessed for irrigation water delivery even though the water may not be deliverable; or

- ii. the water rights are removed or the process has been initiated to remove the water rights from the subdivided land through an appropriate legal or administrative process and if the removal or intended removal is denoted on the preliminary plat. If removal of water rights is not complete upon filing of the final plat, the subdivider shall provide written notification to prospective buyers of the intent to remove the water right and shall document that intent, when applicable, in agreements and legal documents for related sales transactions.

- d. The subdivider shall, unless otherwise provided for under separate written agreement or filed easement, file and record ditch easements for unobstructed use and maintenance of existing water delivery ditches, canals, pipelines, and facilities in the subdivision that are necessary to convey water through the subdivision to lands adjacent to or beyond the subdivision boundaries in quantities and in a manner that are consistent with historic and legal rights.

- 4. Water Rights: When a subdivision creates parcels with lot sizes averaging less than 5 acres, the subdivider shall:

- a. Reserve all or a portion of the appropriation water rights owned by the owner of the land to be subdivided and transfer the water rights to a single entity for use by landowners within the subdivision who have a legal right to the water and reserve and sever any remaining surface water rights from the land;
- b. if the land to be subdivided is subject to a contract or interest in a public or private entity formed to provide the use of a water right on the subdivision lots, establish a landowner's water use agreement administered through a single entity that specifies administration and the rights and responsibilities of landowners within the subdivision who have a legal right and access to the water; or
- c. reserve and sever all surface water rights from the land.

**E. Fire Protection Requirements.** Fire Protection Requirements for subdivisions are described in this Section (Section 6.E) and Appendix I (Fire Protection Packages).

Appendix I is adopted as part of these Regulations. All subdivisions shall be required to provide the following fire protection measures:

1. Fire Protection Plan. All proposed subdivisions shall provide a Fire Protection Plan approved by the local Fire Protection Authority Having Jurisdiction (FPAHJ) prior to the subdivision application being considered complete by the Planning Department. The FPAHJ is the Fire Chief of the fire service organization providing fire protection services to the proposed subdivision. The Fire Protection Plan shall include the following:
  - a. Description and confirmation of fire protection service/arrangement as required under Section 6.E.2.
  - b. For all subdivisions, compliance with general fire protection requirements as outlined under Section 1 of Appendix I, General Fire Protection Requirements.
  - c. For major residential subdivisions, fire protection packages as outlined under sections 2 and 3 of Appendix I.
  - d. For one-lot minor residential subdivisions, fire protection packages as outlined under Section 4 of Appendix I.
  - e. For two through five-lot minor residential subdivisions, fire protection packages as outlined under Section 5 of Appendix I.
  - f. For commercial subdivisions and buildings, fire protection packages as outlined under Section 6 of Appendix I.
  - g. For subdivisions identified as being located within a Structure-Wildland Interface by the Gallatin County Community Wildfire Protection Plan and the FPAHJ, compliance with fire protection requirements for subdivisions in Structure-Wildland Interface as outlined under Section 7 of Appendix I.
2. Fire District/Service Area. If a subdivision is not located in a fire district or fire service area, one of the following fire protection arrangements shall be provided:
  - a. If contiguous to a fire district or fire service area, the subdivision shall petition to annex into the fire district or fire service area before preliminary plat application.

- b. If the annexation is unsuccessful, the subdivider/property owner(s) shall either:
  - i) contract for fire protection services from an existing rural fire district or fire service area ; or
  - ii) form a new fire district or fire service area and contract with an existing rural fire district or fire service area for all Fire Protection Services; or
  - iii) form a rural fire district or fire service area meeting the criteria listed in the Gallatin County Fire Council Fire Protection Standard for New Rural Fire Districts and Fire Service Areas.
- 3. Fire Protection Review Fees. All subdivisions that are located in or annex into a fire district or fire service area shall pay the Fire Protection Review Fee per the current fee schedule on file with the Planning Department.
- 4. Proportionate Reimbursement: If additional subdivisions will be served by an existing Fire Protection Water Supply, the Commission shall include reimbursement of the original Fire Protection Water Supply improvement costs as a condition of preliminary approval of any additional subdivision.

The proportionate reimbursement shall be determined based on the ratio of the number of lots in the subdivision to the total number of lots served by the Fire Protection Water Supply. The ratio then is multiplied by the total cost of the Fire Protection Water Supply. The new subdivision shall join the entity that is responsible in the maintenance or improvements of the Fire Protection Water Supply. If the total cost of the Fire Protection Water Supply has been reached, then a fee of not less than \$100 per lot/living unit shall be paid to the entity that is responsible for maintenance or improvements of the Fire Protection Water Supply.
- 5. Reimbursement Methodology: The original subdivider/property owner shall forward the total costs of improvements to the Planning Department within 60 days of the completion of improvements. Subsequent subdivisions shall pay their proportionate reimbursement to the Planning Department. The Planning Department shall then make disbursements within 60 days of receiving reimbursement funds. Funds shall be disbursed to the entity which has the responsibility for maintenance of the facility. Documentation should also be given to the FPAHJ regarding cost of the improvements.



**F. Grading and Drainage.**

1. The subdivider shall provide a complete grading and drainage plan with accurate dimensions, courses and elevations, showing the proposed grades of roads and drainage improvements.
2. The drainage system and facilities required for any surface run-off affecting the subdivision shall meet the minimum standards of MDEQ, as required by Title 76, Chapter 4, MCA, and all regulations adopted pursuant thereto, and are subject to the approval of the Commission.
  - a. Drainage systems shall not discharge into any sanitary sewer facility.
  - b. The subdivider shall provide suitable drainage facilities for any surface runoff affecting the subdivision; these facilities shall be located in road rights-of-way or in perpetual easements of appropriate widths and are subject to approval by the Commission.

**G. Park Requirements.**

1. Park land Dedications and Cash in Lieu: Except as provided below, the final plat of a residential subdivision shall show that the subdivider has dedicated to the County Commission a cash or land donation equal to:
  - a. 11% of the area of the land proposed to be subdivided into parcels of one-half acre or smaller.
  - b. 7.5% of the area of the land proposed to be subdivided into parcels larger than one-half acre and not larger than one acre.
  - c. 5% of the area of the land proposed to be subdivided into parcels of one acre or larger but not larger than three acres.
  - d. 2.5% of the area of the land proposed to be subdivided into parcels of three acres or larger but not larger than five acres.
2. Cash in Lieu.

- a. A “cash donation” is the fair market value of the un-subdivided, unimproved land.
  - b. Where cash has been accepted in lieu of land dedication, the amount of cash donation shall be stated on the final plat.
  - c. Where cash has been accepted in lieu of land dedication, the Commission shall record in the minutes of the meeting upon the proposed subdivision why the dedication of land for parks and playgrounds was undesirable.
  - d. The subdivider shall provide a current appraisal of the fair market value by a certified real estate appraiser of their choosing. The appraisal fee shall be the responsibility of the subdivider.
3. The Commission, in consultation with the subdivider and the planning board or park board that has jurisdiction, may determine suitable locations for parks and playgrounds and, giving due weight and consideration to the expressed preference of the subdivider, may determine whether the park dedication must be a land donation, cash donation, or a combination of both. When a combination of land donation and cash is required, the cash donation may not exceed the proportional amount not covered by the land donation.
4. The land dedicated for park use may be inside or outside the boundaries of the proposed subdivision (76-3-621(10), MCA).
5. School District Dedication. Subject to the approval of the County Commission and acceptance by the school district trustees, a subdivider may dedicate the required park land donation to a school district, adequate to be used for school facilities or buildings (76-3-621(8), MCA).
6. When a subdivision is located totally within an area for which density requirements have been adopted pursuant to a growth policy under Title 76, Chapter 1, or pursuant to zoning regulations under Title 76, Chapter 2, the Commission may establish park dedication requirements based on the community need for parks and the development densities identified in the plans or regulations. Park dedication requirements established under this section are in lieu of those provided in subsection 1 and may not exceed 0.03 acres per dwelling unit.

7. Residential Subdivisions. All subdivisions shall be considered to be residential subdivisions and park dedication requirements shall be satisfied unless there are adopted zoning restrictions which prohibit residential development or it can be shown that the subdivider has immediate plans for non-residential development.
8. Land dedicated for park land and recreational purposes shall not be used for the location of water supply and sewage disposal facilities, or storm water detention. Fire fill site ponds may be located within a dedicated park, however, the surface area of the pond cannot count towards the required park dedication.
9. A park dedication is not be required for:
  - a. A minor subdivision.
  - b. Land proposed for subdivision into parcels larger than five acres.
  - c. Subdivision into parcels that are all nonresidential.
  - d. A subdivision in which parcels are not created, except when that subdivision provides permanent multiple spaces for recreational camping vehicles, mobile homes, or condominiums.
  - e. A subdivision in which only one additional parcel is created.
10. The Commission shall waive the park dedication requirement if (76-3-621(6), MCA):
  - a. The preliminary plat provides for a planned unit development or other development with land permanently set aside for park and recreation uses sufficient to meet the needs of the persons who will ultimately reside in the development; and the area of the land and any improvements set aside for park and recreational purposes equals or exceeds the area of the dedication required.
  - b. The preliminary plat provides long-term protection of critical wildlife habitat; cultural, historical, or natural resources; agricultural interests; or aesthetic values; and the area of the land proposed to be

subdivided, by virtue of providing long term protection provided above, is reduced by an amount equal to or exceeding the area of the required dedication.

- c. The area of the land proposed to be subdivided, by virtue of a combination of the provisions of (a) and (b) above, is reduced by an amount equal to or exceeding the area of the dedication required.

OR,

- d. The subdivider provides for land outside of the subdivision to be set aside for park and recreational uses sufficient to meet the needs of the persons who will ultimately reside in the subdivision; and the area of the land and any improvements set aside for park and recreational uses equals or exceed the area of dedication required.
- e. The subdivider provides land outside the subdivision that affords long-term protection of critical wildlife habitat, cultural, historical, or natural resources, agricultural interests, or aesthetic values; and the area of land to be subject to long-term protection equals or exceeds the area of the dedication required.

- 11. The Commission may waive the park dedication requirement if (76-3-621(7), MCA):

- a. The subdivider provides land outside the subdivision that affords long-term protection of critical wildlife habitat, cultural, historical, or natural resources, agricultural interests, or aesthetic values; AND
- b. the area of the land to be subject to long-term protection equals or exceeds the area of the dedication required.

- 12. Park Fund.

- a. The Commission shall use the dedicated money or land for development, acquisition, or maintenance of parks to serve the subdivision.
- b. The Commission may use the dedicated money to acquire, develop, or maintain, within its jurisdiction, parks or recreational areas or for the purchase of public open space or conservation easement only if:

- (1) The park, recreational area, open space, or conservation easement is within reasonably close proximity to the proposed subdivision.
  - (2) The Commission has formally adopted a park plan that establishes the needs and procedures for use of the money.
- c. The Commission may not use more than fifty percent (50%) of the dedicated money for park maintenance.

#### **H. Trail Corridors.**

1. General. Subdividers shall provide trail corridors within a subdivision in accordance with the Gallatin County Trails Report & Plan, or any other officially adopted trails plan in the area of the proposed subdivision.
2. Trail Corridor. Trail corridors shall be at least 25 feet wide to ensure adequate room for trail construction, maintenance and use. Trail corridors may either be a public dedicated right-of-way or a public easement. Trails within a public dedicated right-of-way can be used to satisfy parkland dedication requirements.

#### **I. Sanitary Sewers.**

1. Where the subdivision is within the service area of a public sanitary sewer system, the subdivider shall install complete sanitary sewer system facilities in accordance with the requirements of the sewer district involved and MDEQ. The subdivider shall submit plans and specifications for the proposed facilities to the sewer district involved and to MDEQ, and shall obtain their approvals prior to undertaking any construction.
2. Where lots cannot be served by the extension of an existing public sanitary sewer system, the subdivider shall obtain approval of lot sizes for individual septic tanks and disposal fields or approval of neighborhood disposal systems from MDEQ and the Health Department. Percolation data and/or comments from local health officers must accompany the request for approval to MDEQ.

#### **J. Sewage Treatment Systems.**

1. For subdivisions that will create one or more parcels containing less than 20 acres, the proposed method of disposing of sewage from each lot in the subdivision must comply with the design standards adopted by the MDEQ.

2. For subdivisions that will create one or more parcels containing less than 20 acres, the subdivision must have been approved by DEQ or other authorized reviewing authority under the Sanitation in Subdivisions Act, sections 76-4-101 *et seq.*, MCA before the governing body can approve the final plat.
3. For subdivisions containing parcels containing 20 acres or more, the subdivider shall have demonstrated that there is an adequate water source and at least one area for a septic system and a replacement drain field for each lot before the governing body may approve the final plat.

**K. Solid Waste.**

1. For subdivisions that will create one or more parcels containing less than 20 acres, the proposed method of must comply with the standards adopted by the MDEQ.
2. Before the governing body will approve the final plat of a subdivision containing lots of less than 20 acres in size, the subdivision must have been approved by the DEQ or other authorized reviewing authority under the Sanitation in Subdivisions Act sections 76-4-101, *et seq.*, MCA.
- 3.. For subdivisions that will create one or more parcels containing 20 acres ore more and less than 160 acres, the proposed method of storing and disposing of solid waste generated within the subdivision in the subdivision must comply with the local environmental health department regulations.

**L Utilities.**

Underground utilities, if placed in the road right-of-way, shall be located between the roadway and the right-of-way line to simplify location and repair of lines. Such underground facilities shall be installed or utility culverts provided before the road is surfaced to eliminate the necessity of disturbing the road surface when connecting individual services. Overhead utility lines shall be located at the rear property lines where practical. Utility facilities shall be designed by utility firms in cooperation with the subdivider, subject, however, to all applicable laws and rules and regulations of any appropriate regulatory authority having jurisdiction over such facilities.

**M. Water Supply System.**

1. Public Water Supply Systems:

- a. Where the subdivision is within the service area of a public water supply system, the subdivider shall install complete water system facilities in accordance with the requirements of the water district involved, and MDEQ. The subdivider shall submit plans and specifications for the proposed facilities to the water district involved and to MDEQ, and shall obtain their approvals prior to undertaking any construction.
- b. Where a public water supply is not within a reasonable distance or not made available to the subdivider, the subdivider shall obtain approval for some alternative water supply system and lot sizes for such proposals from MDEQ and the GCCHD.

## 2. All other Water Supply Systems

- a. For subdivisions that will create one or more parcels containing less than 20 acres, the proposed method of supplying domestic water to each lot in the subdivision must comply with the design standards adopted by the MDEQ.
- b. The governing body may not approve the final plat of a subdivision containing lots of less than 20 acres in size, unless the subdivision has been approved by MDEQ or other authorized reviewing authority under the Sanitation in Subdivisions Act, sections 76-4-101 *et seq.*, MCA.
- c. Any central water supply system must provide adequate and accessible water for fire protection.

## **N. Mail Delivery.**

If mail delivery will not be to each individual lot within the subdivision, the subdivider shall provide an off-road area for mail delivery within the subdivision in cooperation with the United States Postal Service. It shall not be the responsibility of the County to maintain or plow any mail delivery area constructed within a County road right-of-way.

## **O. Noxious Weeds.**

Noxious weeds shall be controlled as directed by the Weed Control District in accordance with the Montana County Noxious Weed Control Act.

1. Prior to application for preliminary plat approval, the subdivider shall design a Noxious Weed Control and Revegetation Plan, and the subdivider shall submit the plan to the District for approval. This plan ensures the control of noxious weeds upon preliminary plat approval and the revegetation of any land disturbed during the construction of subdivision improvements.
2. The subdivider shall submit the approved plan at the time of application for preliminary plat approval.
3. Prior to application for final plat approval, the subdivider shall enter into a Memorandum of Understanding (MOU) with the Weed District. The MOU shall be signed between the Weed District and the subdivider prior to final plat approval.
4. The subdivider shall submit the signed MOU at the time of application for final plat approval.
5. The subdivider shall ensure that after final plat approval the property owner(s) and/or property owners' association shall be responsible for the control of County declared noxious weeds by placing the following covenant on the property.

“The control of noxious weeds by the Association on those areas for which the Association is responsible and the control of noxious weeds by individual owners on their respective lots shall be as set forth and specified under the Montana Noxious Weed Control Act (MCA 7-22-2101 through 7-22-2153) and the rules and regulations of the Gallatin County Weed Control District. The landowner shall be responsible for the control of state and county-declared noxious weeds on his or her lot. Both unimproved and improved lots shall be managed for noxious weeds. In the event a landowner does not control the noxious weeds, after 10 days notice from the Property Owners Association, the Association may cause the noxious weeds to be controlled. The cost and expense associated with such weed management shall be assessed to the lot and such assessment may become a lien if not paid within thirty (30) days of the mailing of such assessment.”



**P. Waiver of Right to Protest.**

All subdivision final plats to be recorded by the Clerk and Recorder shall include a statement acknowledging and agreeing to waive the right to protest the creation of a special improvement district, road improvement district, or annexation affecting the subdivision.

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